

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

by deleting all sections following the enacting clause and by substituting instead the following:

SECTION 1. The title of this act is the "Revenue Law of 2001".

SECTION 2. Tennessee Code Annotated, Section 67-6-102, subsection (24)(F)

thereof, is amended by adding the following as new subdivisions:

() Providing mailbox rental, postal and mailing services, and on-site personal computer rental services, including rentals where the item rented may only be used on the business premises of the owner, but not including direct mail advertising services or delivering letters and parcels.

() Providing exterminating and pest control services, but not including such services sold for the purpose of aiding in the commercial production of nursery stock or food or fiber for human or animal consumption.

() Providing janitorial and other cleaning services with respect to real property used, or intended to be used, for residential purposes; including but not limited to cleaning services for the interior or exterior of buildings, carpet cleaning, chimney cleaning, drain and gutter cleaning, swimming pool cleaning and maintenance, and ventilation duct cleaning.

() Providing barber and cosmetology services; including but not limited to hair (including facial hair) styling, cutting, coloring, shaving and care services; nail care services; facials, applying make-up, and other spa services; hair removal; and body piercing.

() Providing massages, tattoos, steam baths and saunas.

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

**Scroggs
Signature of Sponsor**

AMEND Senate Bill No. 349*

House Bill No. 1781

() Providing services to assist customers in attaining or maintaining a desired body weight, including but not limited to counseling, menu and exercise planning, and weight and body measurement monitoring; but not including services provided by medical doctors in the normal course of the practice of medicine.

() Providing instruction in sports and recreational activities; including but not limited to, team and individual games and athletics, dance, art, drama, music, martial arts, personal training services, skydiving and flight training; but not including bona fide job training and academic instruction.

() Providing investigative, detective, guard, security or patrol services; alarm system monitoring services; armored car services and the like; guard dog services; and polygraph services.

() Providing collection services for delinquent accounts, including but not limited to collecting payments for claims and remitting payments collected, and repossessing property as the result of delinquent debts.

SECTION 3. Tennessee Code Annotated, Section 67-6-702, is amended by adding the following new subsection:

(h)

(1) Notwithstanding any other provisions of this chapter to the contrary, the following services taxable by the state are exempt from the local tax levied by the provisions of this part:

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

AMEND Senate Bill No. 349***House Bill No. 1781**

() Providing mailbox rental, postal and mailing services, and on-site personal computer rental services, including rentals where the item rented may only be used on the business premises of the owner, but not including direct mail advertising services or delivering letters and parcels.

() Providing exterminating and pest control services, but not including such services sold for the purpose of aiding in the commercial production of nursery stock or food or fiber for human or animal consumption.

() Providing janitorial and other cleaning services with respect to real property used, or intended to be used, for residential purposes; including but not limited to cleaning services for the interior or exterior of buildings, carpet cleaning, chimney cleaning, drain and gutter cleaning, swimming pool cleaning and maintenance, and ventilation duct cleaning.

() Providing barber and cosmetology services; including but not limited to hair (including facial hair) styling, cutting, coloring, shaving and care services; nail care services; facials, applying make-up, and other spa services; hair removal; and body piercing.

() Providing massages, tattoos, steam baths and saunas.

() Providing services to assist customers in attaining or maintaining a desired body weight, including but not limited to counseling, menu and exercise planning, and weight and body measurement monitoring; but not including services provided by medical doctors in the normal course of the practice of medicine.

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

**Scroggs
Signature of Sponsor**

AMEND Senate Bill No. 349*

House Bill No. 1781

() Providing instruction in sports and recreational activities; including but not limited to, team and individual games and athletics, dance, art, drama, music, martial arts, personal training services, skydiving and flight training; but not including bona fide job training and academic instruction.

() Providing investigative, detective, guard, security or patrol services; alarm system monitoring services; armored car services and the like; guard dog services; and polygraph services.

() Providing collection services for delinquent accounts, including but not limited to collecting payments for claims and remitting payments collected, and repossessing property as the result of delinquent debts.

() Charges made for operating coin-operated laundry, drycleaning, car wash facilities, amusement devices, vending machines or public pay telephone services.

SECTION 4. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following new section:

There is levied a tax at the rate of six percent (6%) of the gross charge for all services taxable under this chapter when the same are not sold but are used or consumed in this state; provided that there shall be no duplication of the tax. The use tax levied by this section shall not apply to services performed for an employer by a bona fide employee in the ordinary course of employment; provided, however, that in no case shall the use tax apply to services performed for the state, local or federal government by a bona fide employee of such government in the ordinary course of employment.

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

SECTION 5. Tennessee Code Annotated, Section 67-6-102(24) is amended by deleting subdivision (A) in its entirety and substituting the following:

(A) "Retail sales" or "sale at retail" means a taxable sale of tangible personal property or specifically taxable services to a consumer or to any person for any purpose other than for resale. "Retail sales" or "sales at retail" means and includes all such transactions as the commissioner, upon investigation, finds to be in lieu of sales. Any sales for resale, including those described in subdivisions (i) through (iii) below, must, however, be in strict compliance with rules and regulations promulgated by the commissioner, including use of a resale certificate. Any dealer making a sale for resale which is not in strict compliance with rules and regulations shall be personally liable for and pay the tax. Sales of tangible personal property are taxed as follows:

(i) When made to persons who use that property in providing services that are actually taxed under the provisions of this chapter, and the property is to be transferred to the customer of the purchaser either as tangible personal property or as real property, they shall be considered sales for resale.

(ii) When made to persons who use that property in providing services that are actually taxed under the provisions of this chapter, and the property is not to be transferred to the customer of the purchaser, they are not sales for resale and the person using the property in providing the service shall pay the sales or use tax on such transactions to the Tennessee vendor or use tax if no Tennessee sales tax is paid on the transaction.

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(iii) When made to persons who use that property in providing services that are not actually taxed under the provisions of this chapter, they are not sales for resale, and the person using the property in providing the service shall pay the sales or use tax on such transactions to the Tennessee vendor or use tax if no Tennessee sales tax is paid on the transaction.

SECTION 6. Tennessee Code Annotated, Section 67-6-507, is amended by adding the following new subsection:

() If Tennessee sales or use tax was paid on tangible personal property subsequently transferred, as tangible personal property or real property, by a dealer to the dealer's customer as part of a service that is taxed, the dealer shall be allowed a credit in the amount of the sales or use tax paid on such transferred property against the sales tax due on the service; provided that such credit shall not be the basis of a refund to the taxpayer.

SECTION 7. Tennessee Code Annotated, Section 67-6-102, is amended in subdivision (24)(F)(v) by deleting the words and punctuation “, excluding coin-operated laundry, dry cleaning or car wash facilities,”; and is further amended in subdivision (30)(D) by deleting the words and punctuation “public pay telephone services,”.

SECTION 8. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (f).

SECTION 9. Tennessee Code Annotated, Section 67-6-226, is amended by deleting the words and punctuation “, except such state tax shall not apply to television programming or television service charges or fees in an amount less than fifteen dollars

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(\$15.00) provided by a cable television service provider authorized pursuant to title 7, chapter 59, or by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) offered for public consumption”.

SECTION 10. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the last sentence in subsection (b).

SECTION 11. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (21).

SECTION 12. Tennessee Code Annotated, Section 67-6-330, is amended by deleting subdivisions (A) and (B) of subsection (a)(7), and is further amended by deleting subsections (a)(3), (a)(13), (a)(16) and (a)(19).

SECTION 13. Tennessee Code Annotated, Section 67-4-506, is amended by deleting the section in its entirety.

SECTION 14. Tennessee Code Annotated, Section 67-4-507, is amended by deleting the section in its entirety.

SECTION 15. Tennessee Code Annotated, Section 67-6-330(a), is amended by deleting subdivision (10) in its entirety.

SECTION 16. Tennessee Code Annotated, Section 67-6-212(a), is amended by adding the following as a new subdivision:

() Charges made for operating any machine or device that is intended to provide the user any form of amusement, entertainment, music or game.

SECTION 17. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new subsection:

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

AMEND Senate Bill No. 349***House Bill No. 1781**

() Notwithstanding the provisions of this section to the contrary, all revenue generated from the imposition of sales and use taxes on services pursuant to the provisions of this act shall be deposited in the state general fund and no funds generated from such rate increase or taxes imposed on services shall be distributed pursuant to the provisions of (a) through (e) of this section.

SECTION 18. Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the language "six and one-half (6 ½) mills", and by substituting instead the language "six and five hundred sixty-five thousandths (6.565) mills".

SECTION 19. Tennessee Code Annotated, Section 57-3-302(a), is amended by deleting the language "one dollar and ten cents (\$1.10)", and by substituting instead the language "one dollar and eleven cents (\$1.11)".

SECTION 20. Tennessee Code Annotated, Section 57-3-302(b), is amended by deleting the language "four dollars (\$4.00)", and by substituting instead the language "four dollars and four cents (\$4.04)".

SECTION 21. Tennessee Code Annotated, Section 57-5-201(a)(1), is amended by deleting the language "three dollars and ninety cents (\$3.90)", and by substituting instead the language "three dollars and ninety-four cents (\$3.94)".

SECTION 22. Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by inserting the language "or the state privilege tax levied in Tennessee Code Annotated, Section 57-5-201" immediately following the words "excise tax" in the first sentence.

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

SECTION 23. Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on June 30, 2001, shall not be required to pay the additional cigarette tax levied by this act on such stamps.

SECTION 24. Tennessee Code Annotated, Section 67-6-702, is amended by deleting subsection (a)(1) in its entirety and by substituting instead the following:

(a) (1) Any county by resolution of its county legislative body or any incorporated city or town by ordinance of its governing body is authorized to levy a tax on the same privileges subject to this chapter as the same may be amended, which are exercised within such county, city or town, to be levied and collected in the same manner and on all such privileges but not to exceed two and three-fourths percent (2 3/4%); provided, that the tax levied shall apply only to the first seven thousand five hundred dollars (\$7,500) on the sale or use of any single article of personal property. Notwithstanding any provision of this chapter to the contrary, all revenue generated from the tax levied in this subdivision shall be allocated as follows:

(A) revenue generated from the first one thousand six hundred dollars (\$1,600) on the sale or use of any single article shall be distributed to the local government levying the tax as otherwise provided in this part, and

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(B) all other revenue generated on the sale or use of any single article in excess of one thousand six hundred dollars (\$1,600) shall be deposited in the state general fund.

SECTION 25. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following new part:

67-4-2201. This act shall be known and may be cited as the "Service Industry Business Privilege Tax Act of 2001."

67-4-2202. As used in this part:

- (1) "Commissioner" means the commissioner of revenue;
- (2) "Department" means the department of revenue;
- (3)

(A) "Gross Revenue," "Total Gross Revenue," "Revenue," and "Total Revenue" shall mean any and all amounts, receipts, credits, property or consideration that are received, derived, billed or due by contract or otherwise, for the performance of any taxable service.

(B) Gross revenue shall include the entire charge, or charges, made for taxable services, including incidental services, other incidental work, or incidental tangible personal property used to provide the taxable service, even though such charges may be stated separately from the charge for the taxable services. Such revenue, whether

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781**Scroggs****Signature of Sponsor****AMEND Senate Bill No. 349*****House Bill No. 1781**

valued or paid in money, or otherwise, shall include any deductions authorized by any other law but not authorized by this part.

(C) The failure of a taxpayer to separately state charges for items that are not incidental to the sale of the taxable service performed shall cause all such charges to be subjected to the tax levied by this part.

(D) Gross revenue shall also include the value of any rebates received by a customer and assigned by the customer to the taxpayer to apply to the purchase price of taxable services, or amounts received by a taxpayer from any source as the result of any particular sale of taxable services.

(E) Except as provided in subitem (F)(ii), gross revenue shall also include revenue from government contracts or programs or payments from non-profit entities.

(F) Gross revenue shall not include the following:

(i) Receipts that are the basis for tax levied under the provisions of Title 67, Chapter 6;

(ii) Payments received by health care providers pursuant to TennCare or any successor to TennCare under Title 71, Chapter 5;

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

Scroggs

Signature of Sponsor

AMEND Senate Bill No. 349*

House Bill No. 1781

(iii) Amounts received from an affiliated entity for services performed exclusively for the affiliated entity. For purposes of this subitem, entities are affiliated if either entity, directly or indirectly, wholly owns the other, or if both entities are wholly owned, directly or indirectly, by a common parent; and

(iv) Amounts paid to subcontractors or materialmen in the ordinary course of business and not for the purpose of avoiding the tax levied under this part.

(4) "Internal Revenue Code" means Title 26 of the United States Code in effect during the month in which gross revenue is determined under this part;

(5) "Not-for-profit" means any person described in Sections 401, 408, 408A, 409, 501, 526, 527, 528, 529, or 530 of the Internal Revenue Code, as amended.

(6) "Service industry business" means any for profit or not-for-profit joint venture, corporation, subchapter S corporation, limited liability company, professional limited liability company, registered limited liability partnership, professional registered limited liability partnership, limited partnership, cooperative, joint-

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

stock association, business trust, regulated investment company, real estate investment trust, state chartered or national bank, state or federally chartered savings and loan association, insurance company regulated under Title 56, and any other business organization or entity that is performing any part of a taxable service in Tennessee that does not qualify for an "m" number under Title 67, chapter 6; provided, that any officer, director, principal, shareholder, employee, partner or member of a service industry business subject to the tax levied by this part shall not be subject to the services gross receipts tax except as provided in Section 67-4-2210(a). "Service industry business" does not mean individuals, sole proprietorships, or general partnerships.

67-4-2203.

(a) The tax herein levied is for state purposes only and no county or municipality or taxing district shall have power to levy any like tax; provided, however, that nothing in this part shall be construed or interpreted to repeal or to affect any tax now in effect.

(b) The tax shall be levied upon, and collectible from, the service industry business engaging in a taxable business activity. The tax herein levied upon service industry businesses shall not be construed as a tax upon the purchasers or customers. If a taxpayer lists service business

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

gross revenue tax as a separate charge to the customer, such charge shall be added to the total gross receipts subject to tax under this part.

(c) Nothing in this part shall amend or affect the application of the tax levied under Title 67, Chapter 6, and payment of the tax levied by this part on any gross revenue shall not be a basis for an exemption from sales and use taxes.

67-4-2204.

(a) The supervision and collection of the tax levied by this part shall be under the direction of the commissioner, and the commissioner has the authority and power to prescribe forms upon which taxpayers liable for the tax shall make reports of the facts and information required to enable the commissioner to ascertain the correctness of the gross revenue tax reported and paid by such taxpayers. Failure of any taxpayer to secure such forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner herein provided.

(b) A single service industry business gross revenue tax return shall be filed by each legal entity subject to tax under this part, and the return shall include taxable gross revenue from all business locations of the one taxable business entity. Combined or consolidated service business gross revenue tax returns that include more than one (1) legal entity are not permitted.

Amendment No. 3 to HB1781

**Scroggs
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(c) All service industry businesses subject to the tax levied by this part shall register with the department by completing and filing the registration information form prescribed by the department. Such form shall be filed with the department no later than October 1, 2001 or within fifteen (15) days after the date the person becomes subject to the tax, whichever date occurs last. No service industry business subject to the tax levied by this part shall provide services in this state unless and until it has registered with the department as provided herein; provided, that any taxable business entity that is in existence at the time this part becomes law may continue to provide services without registration until October 1, 2001, by which date it must have registered in order to continue providing such services. The fact that a taxable business entity has not registered shall not relieve it from filing service industry business gross revenue tax returns and paying the tax levied by this part.

67-4-2205.

(a) Any taxable service performed wholly or partly in Tennessee by a service industry business is hereby declared to be a taxable privilege subject to the tax levied by this part. Every service industry business now or hereafter performing in this state any part of a taxable service, as a recompense for the protection of its local activities and as compensation for the benefits it receives from performing such service in Tennessee, shall pay to the commissioner the tax levied by this part.

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(b) The tax levied by this part shall apply to gross revenue for services performed on or after January 1, 2002. If any taxable gross revenue is for services performed partly before and partly after January 1, 2002, the amount of tax due with respect to such gross revenue shall be measured by the ratio that the time spent in performing such services after January 1, 2002, bears to the total time spent in performing such services.

(c) The tax levied by this part shall apply to taxpayers whose business is being conducted by a receivership or trusteeship appointed by any court of competent jurisdiction and shall continue to accrue until such time as the taxpayer has been actually and legally dissolved or ceases to perform taxable services. Nothing in this provision shall be construed to conflict with federal bankruptcy law.

(d) In the event a taxpayer should fail to file a return, the tax imposed by this part shall be levied in the amount of the greater of fifty dollars (\$50.00) per month or the amount that would be due if the taxpayer had filed a return and the tax due had been computed in accordance with Section 67-4-2206.

67-4-2206. There is hereby imposed a tax on each service industry business for the period covered by the required business service gross revenue tax return as follows:

(a) One percent (1%) of gross revenue; and

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

**Scroggs
Signature of Sponsor**

AMEND Senate Bill No. 349*

House Bill No. 1781

(b) One percent (1%) of net revenue taxed at a rate of less than six percent (6%) under Title 67, Chapter 6, Part 2. For purposes of this subsection, "net revenue" means total gross revenue minus the product of (1) a fraction, the numerator of which is the rate of state sales and use tax applied to such revenue and the denominator of which is the rate provided in Section 67-6-202(a); and (2) total gross revenue.

(c) A credit shall be allowed against the tax imposed in subsections (a) and (b) in the amount of:

(1) The total tax paid by each service industry business under Title 67, Chapter 4, Parts 20 and 21;

(2) Premium taxes paid by any service industry business regulated under Title 56;

(3) Occupation tax paid under Title 67, Chapter 4, Part 17, including the sum of such taxes paid by service industry business on behalf of persons employed or otherwise affiliated with the service industry business; and

(4) Tax paid under Section 67-4-402.

67-4-2207. The tax herein levied shall be in addition to all other taxes, and no credit shall be allowed against the tax, except as provided in Section 67-4-2206(c); provided, that payments or charges refunded or credited to a customer, or any bad debt that the service industry business or its agent has been unable to collect after the exercise of diligent efforts, may be deducted from

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

gross revenue reported on the service industry business's return for the tax period in which the refund, credit, or bad debt write-off occurred, but only to the extent that such refund, credit, or transaction resulting in a bad debt was included in gross revenue reported on a prior service business gross revenue tax return. Any payment for a properly determined bad debt that has been deducted from taxable gross revenue reported on a return shall be added to gross revenue reported on the return filed for the period in which the payment was received. In no case shall any reduction in taxes occasioned by a deduction allowed by this section be refunded.

67-4-2208.

(a) Gross revenue from taxable services is subject to the tax levied by this part if:

- (1) The service is performed wholly in Tennessee;
- (2) The service is performed both inside and outside Tennessee, and the service performed outside Tennessee is incidental to the service performed in Tennessee; or
- (3) The service is performed both inside and outside Tennessee, and the benefit of the service performed is received wholly in Tennessee.

(b) Notwithstanding the provisions of subsection (a), if the service is performed both inside and outside Tennessee and the benefit of the service is received both inside and outside Tennessee, the gross revenue

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

subject to the tax levied by this part shall be measured by the ratio that the time spent in performing such service in Tennessee bears to the total time spent in performing such service everywhere.

67-4-2209.

(a) The tax levied under this part shall be due and payable monthly, and a service industry business shall file its service industry business gross revenue tax return with the commissioner on or before the twentieth (20th) day of the month immediately subsequent to the month covered by the return.

(b) The commissioner may require service industry businesses subject to the tax levied by this part to submit service industry business gross revenue tax returns, related documents, and payments by electronic means. In addition to any other penalty provided by law, the commissioner may assess a five hundred dollar (\$500) penalty against any service industry business required to file returns and related documents or make payments by electronic means, for each instance of filing or making payment by any other means.

(c) Upon proper application by a service industry business on a form prescribed by the commissioner, the commissioner is authorized to permit quarterly filing and payment dates in those instances where the commissioner deems it to be in the best interest of the state to do so.

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(d) For good cause, the commissioner may revoke an authorization previously granted to a service industry business under subsection (c); provided, that such revocation shall be prospective only. 67-4-2210.

(a) If a service industry business has liquidated, dissolved, gone out of business, or otherwise terminated and has refused or failed to pay the tax levied under this part, the commissioner shall collect the tax, together with any related penalty and interest, from any officer, stockholder, partner, member, principal, or employee who has received property belonging to the service industry business; provided, that such collection shall be limited to the value of the property received.

(b) The commissioner is empowered to certify to the secretary of state the name of any service industry business that fails or refuses to file any statement or return or to pay any fee or tax herein required; provided, that no certification shall be issued until such statement, return, or tax has remained delinquent for a period of more than ninety (90) days.

(c) At the time of such certification to the secretary of state, the commissioner shall give notice to the service industry business of the action taken. Thereupon, the charter or certificate of such service industry business or its domestication in Tennessee shall stand as automatically dissolved or revoked, and the secretary of state shall note such revocation or dissolution upon the secretary of state's records.

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

(d) At any time after the date of revocation or dissolution, such charter, certificate or domestication may be reinstated upon the filing of all service industry business gross revenue tax returns and the payment of all fees, taxes, interest and penalties due the state, provided that the title has not been taken by another business entity.

67-4-2211. All revenues received by the commissioner from the tax levied by this part and any related interest or penalties shall be deposited in the state's general fund.

67-4-2212.

(a) If any service industry business liable for any tax, interest or penalty levied hereunder shall sell out, quit, or cease its service business, such service industry business shall make a final return and payment of the taxes due within twenty (20) days after the date of selling, quitting or ceasing its business.

(b)

(1) The service industry business's successor, successors, or assigns, if any, shall withhold sufficient amounts of the purchase money to cover the amount of such taxes, interest and penalties due and unpaid until the former owner shall produce a certificate or receipt from the commissioner stating that all gross revenue taxes, interest and penalties due have been paid. If the purchaser of a service industry business fails to withhold the

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Amendment No. 3 to HB1781

**Scroggs
Signature of Sponsor**

AMEND Senate Bill No. 349*

House Bill No. 1781

purchase money as above provided, such purchaser shall be personally liable for the payment of the taxes, interest and penalties accruing and unpaid on account of the operation of the service industry business by any former owner, owners or assigns unless released by the department as hereinafter provided.

(2) A purchaser who, in good faith and without knowledge of any false statement therein, obtains a sworn statement from the seller stating the amount of gross revenue taxes, interest and penalties due to the department and tenders such statement to the department's tax enforcement division by certified mail or by personal service, shall be released from any liability for any tax, interest, or penalties in excess of the total amount stated on the seller's sworn statement unless, within fifteen (15) days of the department's receipt of the seller's statement, the department notifies the purchaser of the correct liability by mail to the return address provided. The seller's sworn statement shall also serve as authorization for the department to advise the purchaser of any service industry business gross revenue tax liability that the seller may have to the department.

(3) The amount of liability of the purchaser of a service industry business for the taxes and related interest and penalties levied herein shall not exceed the amount of the purchase money

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

paid by the purchaser to the seller in good faith and for full and adequate consideration in money or money's worth. "Purchase money," as used in this subdivision, includes cash paid, purchase money notes given by purchaser to seller, the cancellation of the seller's indebtedness to the purchaser, the fair market value of property or other consideration given by purchaser to seller; and shall not be increased or decreased by indebtedness of the seller either taken or assumed by the purchaser when a tax lien has not been filed.

67-4-2213. It is the duty of every service industry business required to make a report and pay any tax or related interest or penalty under this part, to keep and preserve suitable records of the gross revenue taxable under this part, to maintain such other books of account as may be necessary to determine the amount of tax due, and any other tax-related information that the commissioner may require. It is also the duty of every such service industry business to keep and preserve, until such time as the period for making an assessment has expired under Section 67-1-1501(b), all invoices and other records related to taxation under this part. All such books, invoices, and other records shall be open to examination at all reasonable hours to the commissioner or any authorized agents of the commissioner.

SECTION 26. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other

Amendment No. 3 to HB1781

Scroggs
Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 349*

House Bill No. 1781

provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 27. Sections 2 through 24 of this act shall take effect August 1, 2001, the public welfare requiring it. Section 25 of this act shall take effect January 1, 2002, the public welfare requiring it and shall apply to all tax years beginning on or after January 1, 2002. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.